

IC 30-2-10

Chapter 10. Funeral Trust Funds

IC 30-2-10-1

Establishment

Sec. 1. An individual may establish one (1) funeral trust under this chapter, in lieu of any other arrangements for advance payment for funeral and burial expense.

As added by Acts 1982, P.L.179, SEC.2.

IC 30-2-10-2

Payments required to be made to accounts in certain banks, trust companies, and other institutions

Sec. 2. It is unlawful to enter into any agreement or contract for a purpose described in section 1 of this chapter unless the agreement or contract requires that all payments be made by the settlor to an account in a:

- (1) bank;
- (2) trust company;
- (3) savings association; or
- (4) credit union;

whose principal office is in Indiana.

As added by Acts 1982, P.L.179, SEC.2. Amended by P.L.79-1998, SEC.93.

IC 30-2-10-3

Validity of trust; requirements

Sec. 3. A funeral trust established under this chapter is valid only if it:

- (1) is irrevocable;
- (2) has only one (1) settlor;
- (3) names as trustee an Indiana institution qualified under section 2 of this chapter, and requires that all funds be deposited in that institution;
- (4) names a funeral home, licensed under IC 25-15, as sole beneficiary; and
- (5) is accompanied by a written contract between settlor and beneficiary as provided in section 5 of this chapter.

As added by Acts 1982, P.L.179, SEC.2. Amended by P.L.246-1985, SEC.23.

IC 30-2-10-4

Trustee; expenses and compensation

Sec. 4. The trustee, in the administration of funds accepted under this chapter, may be reimbursed and receive from the funds its reasonable expenses in the custody and administration of the funds, and is entitled to the usual and reasonable compensation for its services as trustee. The expenses and compensation shall be paid in accordance with the rules of the department of financial institutions.

As added by Acts 1982, P.L.179, SEC.2.

IC 30-2-10-5

Contracts; required provisions

Sec. 5. The contract under which funds are accepted under this chapter must be in writing and contain, as a minimum, the following provisions:

- (1) Details of the professional services, facilities, equipment, and a description of merchandise to be provided by the beneficiary.
- (2) A provision that the beneficiary may provide merchandise of equal or better quality if the merchandise contracted for is no longer available at the time the merchandise is to be provided.
- (3) The place of the funeral and the place of the burial or other final disposition to be made of the decedent.
- (4) An acknowledgment by the settlor that he understands the irrevocable nature of the trust.
- (5) A provision for reasonable adjustment of the services, or cost of services, if the body is transported a distance greater than twenty-five (25) miles to the place of funeral or the place of burial or final disposition and transportation of a distance in excess of twenty-five (25) miles was not contemplated at the time of the execution of the contract.
- (6) A provision for full payment of the contract amount by the settlor, a description of the manner in which the funds are to be deposited, and a statement that the interest will accrue to the trust account and a further statement that the principal and interest earned shall inure to the beneficiary to cover all the costs incident to the beneficiary's performance of the contract, any excess to be refunded to the estate of the settlor or to the heirs at law.
- (7) The settlor's name, address, and social security number.
- (8) The date that the funeral trust is executed by the settlor.
- (9) The trustee's name and address.
- (10) The beneficiary's license number issued by the state board of funeral service.
- (11) A provision that except under the circumstances described in subsection (12), only the settlor may change the beneficiary, that he may make the change at any time, and that the change is not effective until written notification is given to the original beneficiary.
- (12) A provision that allows the state board of funeral service to change the beneficiary by naming a funeral home as new beneficiary if the original beneficiary becomes deceased, dissolved, terminated, or otherwise loses beneficiary status as a licensee of the state board, and the settlor or his guardian or personal representative fails to select a qualified beneficiary.

As added by Acts 1982, P.L.179, SEC.2. Amended by P.L.246-1985, SEC.24.

IC 30-2-10-6

Change of beneficiary; procedure

Sec. 6. If the settlor changes the beneficiary, he must:

- (1) select a new beneficiary licensed under IC 25-15, or a funeral home or a funeral director licensed in another state; and
- (2) give written notification to the funeral home originally named as beneficiary.

As added by Acts 1982, P.L.179, SEC.2. Amended by P.L.246-1985, SEC.25.

IC 30-2-10-7

Delivery of copy of contract to settlor

Sec. 7. (a) The settlor shall be furnished an executed copy of the contract.

(b) If a contract has been approved and signed by both parties and a copy of the contract has been delivered to the settlor, no further notification to the settlor related to the contract is required.

As added by Acts 1982, P.L.179, SEC.2.

IC 30-2-10-8

Management of funds by financial institutions; annual reports from beneficiaries

Sec. 8. (a) Indiana financial institutions in which trust funds have been deposited in accordance with this chapter may place the funds in a common or commingled trust fund under a single trust instrument. The trustee shall maintain a separate accounting record for each trust fund.

(b) All interest earned by funds deposited in accordance with this chapter accrue to the trust.

(c) The trustee shall disburse the funds deposited in accordance with this chapter to the named beneficiary to discharge an obligation arising from any contract described in section 5 of this chapter, upon receipt of evidence satisfactory to the trustee that the contract has been performed.

(d) A funeral home, licensed under IC 25-15 that is named as beneficiary of funeral trust funds under this chapter shall annually report the following to the state board of funeral service:

- (1) The funeral home's name, Indiana license number, and officers.
- (2) The name and address of any trustee with which funeral trust funds are deposited for the funeral home.

(e) No bonds or permits are required from funeral homes that enter into contracts described in section 5 of this chapter.

As added by Acts 1982, P.L.179, SEC.2. Amended by P.L.246-1985, SEC.26.

IC 30-2-10-9

Violations; offense

Sec. 9. A person who knowingly violates this chapter commits a Class A misdemeanor.

As added by Acts 1982, P.L.179, SEC.2. Amended by P.L.207-1993, SEC.24.

IC 30-2-10-10

Incapacity, resignation, and removal of trustees

Sec. 10. IC 30-4-3-29 governs procedures concerning the incapacity, resignation, or removal of a trustee.

As added by Acts 1982, P.L.179, SEC.2.